

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MENTAL HYGIENE LEGAL SERVICE and
SHAWN SHORT,

Plaintiff,

- against -

ELIOT SPITZER, in his official
capacity as Governor of the State of
New York, ANDREW CUOMO, in his
official capacity as Attorney General
of the State of New York, MICHAEL
HOGAN, in his official capacity as
Commissioner of the New York State
Office of Mental Health, DIANA JONES
RITTER, in her official capacity as
Commissioner of the New York State
Office of Mental Retardation and
Developmental Disabilities, and BRIAN
FISCHER, in his official capacity as
Commissioner of the New York State
Department of Correctional Services,

Defendants.

ANSWER

07-CV-2935 (GEL)

Defendants by their attorney, ANDREW M. CUOMO, Attorney
General of the State of New York, as and for their Answer to the
Complaint filed April 12, 2007, in this action allege as follows:

1. Admit "41", "42", "44", "45", "47", "48", "50",
"51", and "53".
2. Deny "40", "56", "57", "59", "60", "64", "65", "69",
"72", "73", "80", "83", "84", and "87".
3. Deny knowledge or information sufficient to form a
belief as to "2" and "3".

4. Deny "1", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "43", "46", "49", "52", "55", "59", "62", "63", "67", "68", "71", "75", "76", "78", "79", "82", and "85", and refer this Court to the authorities Plaintiff purports to recite for their correct context and meaning.

5. In response to "54", "58", "61", "66", "70", "74", "77", "81", and "86" repeat and reallege the responses made to the relevant paragraphs.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE, DEFENDANTS
ALLEGE:**

6. The Complaint fails to state claims on which relief may be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE, DEFENDANTS
ALLEGE:**

7. This Court lacks subject matter jurisdiction based on abstention doctrines and/or should decline to exercise subject matter jurisdiction based on abstention doctrines and should allow the claims and issues asserted by Plaintiffs to be decided by New York State courts.

WHEREFORE, Defendants request that the court deny the relief requested by plaintiffs, dismiss the Complaint, award to Defendants such costs and attorney fees as may be allowed by law,

and grant such further relief as may be necessary or reasonable.

Dated: New York, New York
December 17, 2007

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By:

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TO:

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Docket Number 07-CV-2935 (GEL)

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Plaintiffs,

- against -

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Defendants.

ANSWER

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Attorney General of the State of
New York

ATTORNEY FOR DEFENDANTS

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Assistant Attorney General

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New York, New York 10271

(212) 416 - 8641

Personal Service of a copy of the within is admitted this

_____ day of _____ 2007
